

Exhibit 1

August 19, 2010

Temporary Restraining Orders/Preliminary Injunction

To justify the grant of temporary restraining order, plaintiff must satisfy the same prerequisites as a party seeking a preliminary injunction. *See Local 1814, Int'l Longshoremen's Ass'n, AFL-CIO v. N.Y. Shipping Ass'n, Inc.*, 965 F.2d 1224, 1228 (2d Cir. 1992). In general, a district court may grant a preliminary injunction where the moving party establishes:

(1) that it is likely to suffer irreparable injury if the injunction is not granted, and

(2) either

(a) a likelihood of success on the merits of its claim, or

(b) the existence of serious questions going to the merits of its claim and a balance of the hardships tipping decidedly in its favor.

See Moore v. Consol. Edison Co. of N.Y., Inc., 409 F.3d 506, 510 (2d Cir. 2005). "Such relief ... is an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion." *Id.* (citation and internal quotation marks omitted).

In some cases, however, a significantly higher standard applies.

Specifically, “[w]hen, as here, the moving party seeks a preliminary injunction that will affect government action taken in the public interest pursuant to a statutory or regulatory scheme, the injunction should be granted only if the moving party meets the more rigorous

likelihood-of-success standard.” *Sussman v. Crawford*, 488 F.3d 136, 140 (2d Cir. 2007) (citations omitted). Accordingly, plaintiffs “must establish a clear or substantial likelihood of success on the merits.” *Tunick v. Safir*, 209 F.3d 67, 70 (2d Cir. 2000) (citation omitted).